

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

21-cr-10104 (PBS)

VLADISLAV KLYUSHIN,  
a/k/a "Vladislav Kliushin"  
IVAN ERMAKOV,  
a/k/a "Ivan Yermakov," and  
NIKOLAI RUMIANTCEV,  
a/k/a "Nikolay Rumyantsev,"

Defendants

MOTION IN LIMINE CONCERNING DEFENSE HEARSAY OBJECTION  
TO SEVERAL LINES IN EXHIBIT 46

Last week, the defendant objected to the admission of Exhibit 46, a four-way group chat on the encrypted messaging app Threema involving the defendant, Ivan Ermakov, Nikolai Rumiantcev, and a fourth individual. The defendant withdrew that objection after the government objected on hearsay grounds to the defense offering segments of the chat as defense exhibits. The issue thus resolved, the defense opened by displaying portions of the chat to the jury.

Now, on the eve of the government's admission of the chat into evidence, the defense seeks to preclude the government from introducing several lines from the chat on purported hearsay grounds, because those statements were uttered by an individual who has not been identified. The objection is meritless. The challenged lines are admissible as nonhearsay on multiple grounds—including to provide context for the defendant's own statements in response—and the fact that the declarant is unidentified has no bearing on this analysis, as the First Circuit has made clear.

2/16/23

I ruled at trial.

Paul Sarno